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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,647	04/02/2004	Linda S. Powers	13368.0002	3408

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08/29/2006

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EXAMINER

BARNHART, LORA ELIZABETH

ART UNIT PAPER NUMBER

1651

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/817,647

Examiner

Lora E. Barnhart

Applicant(s)

POWERS ET AL.

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 21 June 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☒ C. Other See continuation sheet.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See continuation sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable


Telephone No.

WLB

Continuation Sheet for Notice of Noncompliant Amendment under 37 C.F.R. 1.121

Continuation of box 1 (Amendments to the specification): Page 2 of the reply indicates that Table I on page 2 of the specification should be replaced with new text; however, Table I is on page 14 of the as-filed specification. Secondly, 37 C.F.R. 1.121(b) allows for amendments to the specification by substitute paragraphs, sections, or specifications, but not fragments of paragraphs. The attempt to amend the specification (page 3 of the reply) is insufficient. The entire paragraph of interest (*i.e.*, that starting at page 3, line 8) should be re-presented in the amendments to the specification, with the amendments thereto annotated as directed by 37 C.F.R. 1.121.

Continuation of box 4 (Amendments to the claims): Claims 1 and 3 are provided the status identifier "Amended," which is not an acceptable status identifier according to 37 C.F.R. 1.121(c). The examiner suspects applicant meant to employ the "Currently amended" status identifier. Furthermore, claim 2 is marked "Withdrawn," which renders the status of the claim confusing for a few reasons. First, claims are generally withdrawn by the examiner in response to an election, not by the applicant to estop prosecution thereof. Second, the entire text of claim 2 has been struck through, leaving no limitations to be examined. The examiner suspects that applicant in fact meant to cancel claim 2, since no text remains in this claim and its limitations were not specifically addressed within the remarks. Applicant's remarks indicate both that claim 2 is no longer being prosecuted (page 13, paragraph 2) and that it is under consideration (page 15, paragraph 1, for example). It is not clear whether applicant intends claim 2 to be considered. Clarification of the status of claim 2 is required.


SANDRA E. SAUTTER
PRIMARY EXAMINER
